

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MARTIN S. FRIEDLANDER, individually,
and as Assignee for the Successor Trustee of the
Legal Defense and Maintenance Trust
of California, a Citizen of California; and
as an Express Third Party Beneficiary of the
Legal Defense and Maintenance
Trust of California; The Successor in
Interest to All the Claims, Assets, Rights, and
Causes of Action Herein Asserted on Behalf of
Santa Fe Business Park LLC, Summit
Floormart LLC, Summit Valdes Business
Park, LLC, Summit Center LLC, El Llano
Summit Business Center LLC, El Llano
Summit Caja Del Rio LLC, and Jeffrey
Potter,

Plaintiff,

vs.

No. CIV 06-1160 JB/DJS

RICHARD P. COOK; EL LLANO COMPANY, INC.;
VALLEY NATIONAL BANK; COMEAU, MALDEGEN,
TEMPLEMAN & INDALL, LLP; GRAY HANDY;
PAULA COOK; JOHN PATTERSON; ROBERT ENGEL;
VERN BOWERS; SONNY OTERO d/b/a OTERO
CONSTRUCTION COMPANY; PHASE ONE REALTY;
ERNEST ("ERNIE ROMERO"); W. JAMES METHANY;
and SARCO CONSTRUCTION COMPANY,

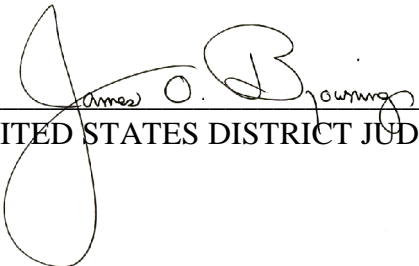
Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on the Defendants Sarco Construction Company, El Llano Company, Inc, and Richard [Cook]'s Motion and Memorandum to Dismiss and to Strike the Complaint, filed January 17, 2007 (Doc. 28). The Court held a hearing on the motion on September 25, 2007. The primary issues are: (i) whether the Court should dismiss Plaintiff Martin

S. Friedlander's Complaint against Defendants Sarco, El Llano, and Richard Cook for failure to comply with rule 8 of the Federal Rules of Civil Procedure; (ii) whether the Court should strike the Complaint or portions of it because of rule 12(f)'s prohibition against redundant and impertinent material; and (iii) whether the Court should require Friedlander to file a more definite statement. Because the Court has already granted in part the Defendants Sarco Construction Company, El Llano Company, Inc. and Richard Cook's Joint Motion to Dismiss the Complaint (Doc. 26), see Memorandum Opinion and Order, filed September 30, 2007 (Doc. 76), and decided to abstain pending resolution of the pending state case involving the same or similar claims, see Doc. 76 at 3-5, the Court will deny this motion as moot without prejudice to these Defendants re-raising these issues if and when the Court lifts the stay.

IT IS ORDERED that the Defendants Sarco Construction Company, El Llano Company, Inc., and Richard [Cook]'s Motion to Dismiss and to Strike the Complaint is denied as moot without prejudice to these Defendants re-raising these issues if and when the Court lifts the stay in this case to permit litigation against these Defendants.



UNITED STATES DISTRICT JUDGE

Parties and Counsel:

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